

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 055075
ORIGIN NEA-10

INFO OCT-01 ISO-00 DHA-02 L-03 CIAE-00 INR-07 NSAE-00 /023 R

DRAFTED BY NEA/INS:DRTELLEEN:JES
APPROVED BY NEA/INS:DKUX
-----120229Z 003661 /73
P 112308Z MAR 77
FM SECSTATE WASHDC
TO AMEMBASSY KATHMANDU PRIORITY

LIMITED OFFICIAL USE STATE 055075

E.O. 11652: N/A

TAGS: SHUM, NP

SUBJECT: HUMAN RIGHTS REPORT TO CONGRESS

REF: (A) KATHMANDU 940; (B) STATE 49440; (C) STATE 38407

1. FOLLOWING IS TEXT OF UNCLASSIFIED HUMAN RIGHTS REPORT
ON NEPAL.

FINALIZED BY THE DESK IN DECEMBER, AND THEREFORE DOES NOT
TAKE ACCOUNT OF DEVELOPMENTS SINCE THEN; (FYI. DESPITE
LONG LEAD TIME, POLICY DECISION WAS MADE NOT TO UPDATE THIS
CYCLE OF REPORTS. ONLY EXCEPTION WAS INDIA PAPER, FOR
OBVIOUS REASONS. END FYI.) DEPARTMENT HAS NO OBJECTION
IF EMBASSY DECIDES TO CONVEY PAPER TO HMG AS CONTEMPLATED
REFTEL C.

2. QUOTE: I. POLITICAL SITUATION
NEPAL IS NOMINALLY A CONSTITUTIONAL MONARCHY BUT IN PRACTICE
THE KING IS THE SOLE SOURCE OF AUTHORITY FOR ALL GOVERNMENT
INSTITUTIONS IN A HIGHLY TRADITIONAL SOCIETY. POLITICAL
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 055075

PARTIES WERE BANNED IN 1960 AND MANY OF THEIR MEMBERS WERE
IMPRISONED. THE PARTIES WERE REPLACED BY A COMPLEX SYSTEM
OF VILLAGE COUNCILS KNOWN AS THE "PANCHAYAT SYSTEM" WHICH
REINFORCES THE CROWN'S AUTHORITY.

MANY OF THE IMPRISONED FORMER POLITICAL PARTY MEMBERS WERE
RELEASED IN THE MID AND LATE 1960S AFTER THEY AGREED TO

PARTICIPATE IN THE PANCHAYAT SYSTEM. HOWEVER, OTHERS REMAINED IN PRISON OR IN EXILE IN INDIA, WHICH WAS THE STAGING AREA FOR ATTACKS INSTIGATED BY THE EXTREME WING OF THE NEPALI CONGRESS PARTY. THE ATTACKS CEASED IN DECEMBER 1975, AND THE GOVERNMENT HAS EVIDENCED A CONFIDENCE IN ITS ABILITY TO MAINTAIN INTERNAL SECURITY, IN PART BY RELEASING VIRTUALLY ALL POLITICAL PRISONERS.

II. LEGAL SITUATION

THE CONSTITUTION OF 1961, AS AMENDED, PROVIDED FOR MANY INTERNATIONALLY RECOGNIZED HUMAN RIGHTS AND FREEDOMS. IT GUARANTEES FREEDOM OF SPEECH, EXPRESSION, PEACEFUL ASSEMBLY AND RELIGION. IT PROHIBITS DISCRIMINATION AS WELL AS DEPRIVATION OF LIFE OR LIBERTY EXCEPT BY DUE PROCESS. THE CONSTITUTION ALSO ESTABLISHES PROCEDURES FOR ARREST, TRIALS AND DETENTION, ALTHOUGH PREVENTIVE DETENTION IS PERMITTED EXCEPTION.

THE BASIC LAW RESTRICTING THE RIGHTS OF NEPALESE IS THE PUBLIC SECURITY ACT OF 1961 WHICH PROVIDES FOR PREVENTIVE DETENTION, EXILE AND "OTHER MEASURES" AS MAY BE REQUIRED "TO MAINTAIN PEACE AND SECURITY". NO ORDER ISSUED UNDER THE ACT MAY BE QUESTIONED IN A COURT OF LAW, BUT THE PRISONER MAY APPEAL TO THE HOME MINISTER AND HAVE LEGAL COUNSEL IN DOING SO.

ALTHOUGH THE PUBLIC SECURITY ACT REMAINS AS THE PRIMARY GOVERNMENT MECHANISM TO RESTRICT POLITICAL ACTIVITY, THE GOVERNMENT HAS RESPONDED TO INCREASING PUBLIC CRITICISM LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 055075

OF THE ACT BY GIVING ASSURANCES THAT IT WILL RESORT TO THE ACT ONLY IN EXTREME CIRCUMSTANCES. THERE HAVE BEEN NO ARRESTS UNDER THE ACT BY THE NATIONAL GOVERNMENT DURING 1976.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: MOST NEPALESE ENJOY THE RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON BUT OBSERVANCE OF THIS GUARANTEE IS UNEVEN AND REFLECTS THE CIRCUMSTANCES OF A TRADITIONAL AND IMPOVERISHED COUNTRY. ON THE ONE HAND THE GOVERNMENT RETAINS THE POWER TO DEAL ARBITRARILY WITH POLITICAL OPPOSITION. ON THE OTHER HAND, GOVERNMENT CONTROL OF ARBITRARY ACTIONS BY LOCAL OFFICIALS IS NOT FULLY EFFECTIVE IN REMOTE AREAS OF THE COUNTRY.

ARTICLE 5: TORTURE AND CRUEL INHUMAN TREATMENT OR PUNISHMENT ARE NOT CONDONED BY THE GOVERNMENT. OCCASIONAL

CHARGES HAVE BEEN MADE IN THE PAST THAT PRISONERS HAVE BEEN TORTURED, BUT THESE HAVE NOT BEEN SUBSTANTIATED.

ARTICLE 8: NEPALESE EFFECTIVELY CANNOT OBTAIN REMEDY FROM THE COURTS FOR ACTIONS VIOLATING THEIR RIGHTS PURSUANT TO ARREST ORDERS ISSUED UNDER THE PUBLIC SECURITY ACT. NO SUCH ORDER MAY BE QUESTIONED IN THE COURTS.

ARTICLE 9: CHARGES HAVE BEEN MADE IN THE PAST THAT THE GOVERNMENT HAS PRACTICED ARBITRARY ARREST AND DETENTION UNDER THE PUBLIC SECURITY ACT. UNDER THE ACT PERSONS MAY BE HELD UP TO NINE MONTHS WITHOUT THE SPECIFIC APPROVAL OF THE CENTRAL GOVERNMENT AND IF APPROVAL IS GRANTED, THEY CAN BE IMPRISONED FOR UP TO THREE YEARS OR LONGER IF THE TERM IS EXTENDED BY A THREE-MEMBER ADVISORY BOARD. IN PRACTICE SOME PRISONERS HAVE BEEN RELEASED AFTER THREE YEARS ONLY TO BE REARRESTED FOR A NEW PERIOD OF DETENTION. LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 055075

IN APRIL 1976 THE GOVERNMENT ANNOUNCED THAT 50 PERSONS REMAINED IN DETENTION UNDER THE ACT. MOST OF THESE ARE APPARENTLY HELD FOR SUCH OVERT CRIMES AS BANK ROBBERY RATHER THAN FOR THEIR POLITICAL OPINIONS AS SUCH, AND ARE THEREFORE NOT CONSIDERED TO BE "POLITICAL PRISONERS." ALTHOUGH THE GOVERNMENT NO LONGER IMPOSES EXILE AS A PUNISHMENT, SEVERAL PROMINENT LEADERS OF BANNED POLITICAL PARTIES, INCLUDING THE NEPALI CONGRESS PARTY AND COMMUNIST PARTY, HAVE CHOSEN VOLUNTARY EXILE IN INDIA.

ARTICLE 10: IN MOST CRIMINAL AND CIVIL CASES THE PRISONERS ARE ARRAIGNED AFTER ARREST. HOWEVER, THIS PRACTICE HAS NOT BEEN FOLLOWED IN CASES WHICH FALL UNDER THE PUBLIC SECURITY ACT.

ARTICLE 11: THE CONSTITUTION PROVIDES THAT LIFE AND LIBERTY MAY BE DEPRIVED ONLY BY DUE PROCESS. THE RIGHT TO A FAIR TRIAL IS NOT ASSURED, HOWEVER, IN CASES WHICH FALL UNDER THE SECURITY ACT.

B. OTHER IMPORTANT FREEDOMS

ALTHOUGH NEPALESE SOCIETY CONTINUES TO BE STRATIFIED ALONG TRADITIONAL LINES, OVERT DISCRIMINATION IS NOT CONDONED AND RELIGIOUS TOLERANCE IS A PROMINENT PUBLIC VALUE. MOVEMENT WITHIN THE COUNTRY IS FREE AND EMIGRATION IS GENERALLY FREE EXCEPT FOR RESTRICTIONS PLACED ON THE EMIGRATION OF SKILLED LABOR AND EDUCATED PERSONS WHOSE SERVICES ARE DEEMED NECESSARY FOR ECONOMIC DEVELOPMENT. THE RIGHT TO OWN PROPERTY IS GUARANTEED. IN GENERAL NEPALESE ARE FREE TO ASSEMBLE AND EXPRESS THEMSELVES EXCEPT IN POLITICAL OPPOSITION TO THE GOVERNMENT. RELIGIOUS CONVERSION IS PRO-

HIBITED IN THE CONSTITUTION AND PUNISHABLE BY THREE TO SIX

YEAR PRISON SENTENCES.

IV. OTHER HUMAN RIGHTS REPORTING

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 STATE 055075

AMNESTY INTERNATIONAL HAS IN THE PAST VOICED SOME CONCERN
ABOUT POLITICAL PRISONERS IN NEPAL, BUT SINCE APRIL 1976
ITS LOCAL REPRESENTATIVES CONSIDER THAT NO POLITICAL
PRISONERS ARE NOW UNDER DETENTION.

FREEDOM HOUSE CHARACTERIZES NEPAL AS "NOT FREE."
VANCE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: HUMAN RIGHTS, US CONGRESSIONAL PRESENTATIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 11-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE055075
Document Source: CORE
Document Unique ID: 00
Drafter: DRTELLEEN:JES
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770085-0334
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770367/aaaachbl.tel
Line Count: 188
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 3da324b9-c288-dd11-92da-001cc4696bcc
Office: ORIGIN NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 KATHMANDU 940, 77 STATE 49440, 77 STATE 38407
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 22-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3130246
Secure: OPEN
Status: NATIVE
Subject: HUMAN RIGHTS REPORT TO CONGRESS
TAGS: SHUM, NP
To: KATHMANDU
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/3da324b9-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009